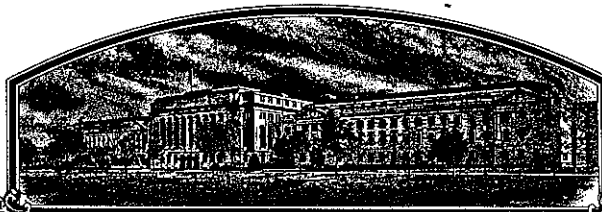


No.

7900095



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

**Koninklijke Zaaizaadbedrijven
Gebroeders Sluis, B.V.**

Whereas, THERE HAS BEEN PRESENTED TO THE
Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED NOVEL VARIETY OF SEXUALLY REPRODUCED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF *seventeen* YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT (AT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

LETTUCE

'Diplomat'

CORRECTED CERTIFICATE

* Date of Grant January 2, 1980.

In Testimony Whereof, I have hereunto set my hand and caused the seal of the Plant Variety Protection Office to be affixed at the City of Washington, D. C. this 30th day of June in the year of our Lord one thousand nine hundred and eighty-eight.

Attest

Kenneth H. Evans
Commissioner
Plant Variety Protection Office
Agricultural Marketing Service

Richard E. Lyng
Secretary of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
LIVESTOCK, POULTRY, GRAIN & SEED DIVISION

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

INSTRUCTIONS: See Reverse.

FORM APPROVED
OMB NO. 40-R3822

No certificate for plant variety protection may be issued unless a completed application form has been received (5 U.S.C. 553).

FOR OFFICIAL USE ONLY

PV NUMBER 7900095

1a. TEMPORARY DESIGNATION OF VARIETY

Citation

1b. VARIETY NAME

DIPLOMAT

Citation VIVA

AG 4/14/88

2. KIND NAME

Lettuce

3. GENUS AND SPECIES NAME

Lactuca Sativa L.

4. FAMILY NAME (BOTANICAL)

Compositae

5. DATE OF DETERMINATION

October 15, 1978

6. NAME OF APPLICANT(S)

Bruce Church, Inc.

7. ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code)

P. O. Box 599
Salinas, California 93902

8. TELEPHONE AREA CODE AND NUMBER

(408) 758-4421

9. IF THE NAMED APPLICANT IS NOT A PERSON, FORM OF ORGANIZATION: (Corporation, partnership, association, etc.)

Corporation

10. IF INCORPORATED, GIVE STATE AND DATE OF INCORPORATION

California

11. DATE OF INCORPORATION

3/15/49

12. NAME AND MAILING ADDRESS OF APPLICANT REPRESENTATIVE(S), IF ANY, TO SERVE IN THIS APPLICATION AND RECEIVE ALL PAPERS:

M. T. Payne, Vice President
Bruce Church, Inc.
P. O. Box 599, Salinas, California 93902

13. CHECK BOX BELOW FOR EACH ATTACHMENT SUBMITTED:

- ☒ 13A. Exhibit A, Origin and Breeding History of the Variety (See Section 52 of the Plant Variety Protection Act.)
- ☒ 13B. Exhibit B, Novelty Statement.
- ☒ 13C. Exhibit C, Objective Description of the Variety (Request form from Plant Variety Protection Office.)
- ☒ 13D. Exhibit D, Additional Description of the Variety.

14a. DOES THE APPLICANT(S) SPECIFY THAT SEED OF THIS VARIETY BE SOLD BY VARIETY NAME ONLY AS A CLASS OF CERTIFIED SEED? (See Section 83(a). (If "Yes," answer 14B and 14C below.) ☐ YES ☒ NO

14b. DOES THE APPLICANT(S) SPECIFY THAT THIS VARIETY BE LIMITED AS TO NUMBER OF GENERATIONS? ☐ YES ☒ NO

14c. IF "YES" TO 14B, HOW MANY GENERATIONS OF PRODUCTION BEYOND BREEDER SEED?

☐ FOUNDATION ☐ REGISTERED ☐ CERTIFIED

15a. DID THE APPLICANT(S) FILE FOR PROTECTION OF THIS VARIETY IN OTHER COUNTRIES? ☐ YES ☒ NO (If "Yes," give name of countries and dates.)

15b. HAVE RIGHTS BEEN GRANTED THIS VARIETY IN OTHER COUNTRIES? ☐ YES ☒ NO (If "Yes," give name of countries and dates.)

16. DOES THE APPLICANT(S) AGREE TO THE PUBLICATION OF HIS/HER (THEIR) NAME(S) AND ADDRESS IN THE OFFICIAL JOURNAL? ☐ YES ☒ NO

17. The applicant(s) declare(s) that a viable sample of basic seed of this variety will be furnished with the application and will be replenished upon request in accordance with such regulations as may be applicable.

The undersigned applicant(s) is (are) the owner(s) of this sexually reproduced novel plant variety, and believe(s) that the variety is distinct, uniform, and stable as required in Section 41, and is entitled to protection under the provisions of Section 42 of the Plant Variety Act.

Applicant(s) is (are) informed that false representation herein can jeopardize protection and result in penalties.

7/20/79
(DATE)

(SIGNATURE OF APPLICANT)

(SIGNATURE OF APPLICANT)



Bruce Church, Inc.

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VARIETY: ~~VIVA~~ DIPLOMAT
~~CITATION~~

AB 4/14/88

154
790815

EXHIBIT A

Origin and Breeding History of Variety

~~VIVA~~ DIPLOMAT

1. ~~Citation~~ originated from a hand-pollinated cross between Empire and Spartan Lakes. The cross was made in the Salinas Valley of California in 1973.
2. Initial trial plantings were conducted in 1974 to allow for individual plant selection work. Several subsequent trial plants were made following the initial selection process to allow for segregation and more evaluations and selections. Selections were made on the basis of size, color, texture and uniform heading capabilities.
3. The procedures involving trial plantings, evaluations, and plant selections were repeated numerous times before finally attaining the desirable plant type. These plantings were conducted in Yuma, Arizona, and the Salinas and San Joaquin Valleys of California.
4. ~~Citation~~ is genetically uniform and free of any distinct variations.

~~VIVA~~ DIPLOMAT



7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VARIETY: ~~CITATION~~ ^{VIVA} DIPLOMAT

JES
790815

EXHIBIT B

AB
4/14/88

Novelty Statement

^{VIVA}
~~Citation~~ most closely resembles the variety Empire. The distinguishing features of ~~Citation~~ ^{VIVA} compared to Empire include:

1. Color

^{VIVA}
~~Citation~~ is a darker green color than Empire.
^{VIVA}
~~Citation~~ most closely resembles "Green Group 143-C" (Royal Horticultural Society Colour Chart), whereas Empire most closely resembles "Yellow-Green Group 144-B of this same chart.

In addition to the darker color, ~~Citation~~ ^{VIVA} also exhibits more of a glossy appearance than Empire.

2. Texture

^{VIVA}
~~Citation~~ has thicker head leaves than Empire. In comparing the second head leaf of each variety, Empire has a thickness of one-half to one millimeter; whereas ~~Citation~~ ^{VIVA} has a thickness of one to two millimeters. This additional thickness of leaves gives ~~Citation~~ ^{VIVA} a better texture. Better texture leads to a longer shipping and shelf-life. This was apparent from post-harvest holding trials simulating shipping conditions for a period of seven days. Empire will show seventy-five percent more post-harvest disorders such as pink rib and senescence tip burn than ~~Citation~~ ^{VIVA}.

3. Heading and Uniformity of Heading

^{VIVA}
~~Citation~~ is a better heading variety and extremely more uniform heading variety than Empire. (See photographs enclosed.) Empire will have a tendency to remain puffy in hot wheather; ~~Citation~~ ^{VIVA} will make a solid head of lettuce under the same temperature conditions. Empire will also at times form a spiraled-type head whereas ~~Citation~~ ^{VIVA} will consistently form a round solid head. ~~Citation~~ ^{VIVA} is more uniform in heading than Empire. (See photographs enclosed,) Within this field, by actual counts, ~~Citation~~ ^{VIVA} harvested ninety-seven percent of the heads in one cutting; whereas Empire harvested only fifty percent of the heads.



Bruce Church, Inc.

Page 2 of 2

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VARIETY: ~~CITATION~~ ^{VIVA DIPLOMAT} ⁷⁸⁴
^{AK} ⁷⁹⁰⁸¹⁵
EXHIBIT B ^{9/19/88}

Novelty Statement

(See photograph pages for descriptive information.)

4. Early Maturing

^{VIVA}
~~Citation~~ will mature four days earlier than Empire.

OBJECTIVE DESCRIPTION OF VARIETY
(LETTUCE)

INSTRUCTIONS: See reverse.

NAME OF APPLICANT(S)

BRUCE CHURCH, INC.

ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code)

P. O. Box 599
Salinas, California 93902

FOR OFFICIAL USE ONLY

PVPO NUMBER

297 - 1 -

7900095

VARIETY NAME OR TEMPORARY
DESIGNATION

Citation

VIVA

AB 4/4/8
DIPLOMAT
1E4 790815

Place the appropriate number that describes the varietal character of this variety in the boxes below.

1. PLANT TYPE:

10 = CUTTING (Leaf)

20 = STALK

50 = BUTTERHEAD

60 = LATIN

70 = OTHER (Specify)

30 = COS

31 = SELF-CLOSING
GROUP32 = LOOSE-CLOSING
GROUP

40 = CRISPHEAD

41 = IMPERIAL GROUP

42 = GREAT LAKES GROUP

43 = VANGUARD

44 = NEW YORK GROUP

2. SEED COLOR:

1 = WHITE

2 = BLACK

3 = YELLOW

3. ANTHOCYANIN:

1 = ABSENT

2 = PRESENT

4. LEAF CONTAINING ANTHOCYANIN:

1 = COVERED

2 = SPOTTED

3 = ALONG MARGIN

4 = ABSENT

5 = OTHER (Specify)

5. LEAF SURFACE TEXTURE:

1 = SMOOTH

2 = BLISTERED

6. LEAF SURFACE REFLECTANCE:

1 = DULL

2 = GLOSSY

3 = OTHER (Specify)

7. LEAF MARGIN:

1 = STRAIGHT

2 = WAVY

3 = CURLED

1 = ENTIRE

2 = DENTATE

3 = INCISED

4 = DEEPLY INCISED

5 = OTHER (Specify)

8. LEAF SHAPE:

1 = ROUNDED

2 = POINTED

1 = BROADER
THAN LONG2 = LONGER
THAN BROAD

3 = OTHER (Specify)

9. LEAF COLOR: (See reverse.)

1 = RED

2 = REDDISH-BROWN

3 = YELLOW

4 = YELLOWISH-GREEN

5 = GREYISH-GREEN

6 = BLUE-GREEN

7 = DARK-GREEN

8 = VERY DARK GREEN

10. HEADS:

1 = SPHERICAL

2 = FLATTENED

3 = ELONGATE

4 = POINTED

5 = NON-HEADING

11. PLANT SIZE: (See reverse.)

1 = SMALL

2 = MEDIUM

3 = LARGE

12. CULTURE:

1 = SUMMER
CROP2 = WINTER
CROP3 = NOT
SPECIFIC4 = UNDER
GLASS

5 = OTHER (Specify)

Late summer, fall,
early winter

13. SIZE OF 10-DAY OLD SEEDLING GROWN UNDER CONSTANT LIGHT (Growth Chamber) AT 25° C.: (Place a zero in first box (i.e. 012) when size is 9 mm. or less.)

mm. LENGTH OF SEEDLING

mm. LENGTH OF COTYLEDON

mm. WIDTH OF COTYLEDON

14. DISEASE RESISTANCE TO: (Enter zeroes in box(es) where there is no special disease resistance.)

1 = TIPBURN

2 = MOSAIC

3 = DAMPING OFF

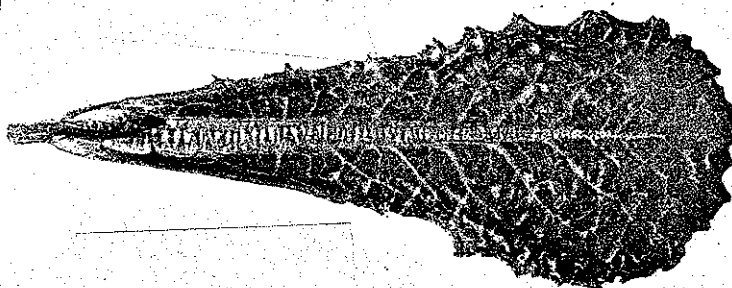
4 = DOWNY MILDEW

5 = SCLEROTINIA
ROT6 = BROWN
BLIGHT

7 = BIG VEIN

8 = OTHER (Specify)

15. OUTLINE THE FOURTH LEAF: (For standardization purposes, the fourth leaf should be taken from a 20-day old plant grown under constant light.)





Bruce Church, Inc.

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VARIETY: ~~CITATION~~ *VIVA DIPLOMAT*

JE4
790815

AK
4/14/88

OBJECTIVE DESCRIPTION OF VARIETY - ITEM 13

Size of Ten-Day Old Seedling Grown
Under Constant Light at 25°C

<u>Length of Seedling</u>	<u>Length of Cotyledon</u>	<u>Width of Cotyledon</u>
79mm	26mm	8mm
85	27	8
70	25	8
98	35	9
79	32	9
78	33	9
74	28	8
84	29	7
75	25	9
74	29	10
<hr/>	<hr/>	<hr/>
Avg. 79mm	29mm	8mm

7900095

FORM GR-471 (REVERSE)

16. INDICATE WHICH VARIETY MOST CLOSELY RESEMBLES THAT SUBMITTED:

CHARACTER		NAME OF VARIETY				
Leaf color		Empire				
Leaf pigmentation		Empire				
Leaf shape		Empire				
Plant size		Empire				
Head size		Empire				
VARIETY	NO. OF DAYS TO HEAD MATURITY UNDER WINTER * CROPPING	LOCATION	NO. OF DAYS TO HEAD MATURITY UNDER SUMMER ** CROPPING	LOCATION	NO. OF DAYS TO SEED STALK EMERGENCE UNDER SUMMER CROPPING	LOCATION
Submitted	81 Days	Yuma, AZ	65	Huron, CA	80	San Joaquin Valley, CA
Similar	85 Days	Yuma, AZ	69	Huron, CA	70	San Joaquin Valley, CA
Name of similar variety	Empire		Empire		Empire	

* Fall Cropping

** Late Summer

INSTRUCTIONS

GENERAL: The following publications may be used as a reference aid for completing this form:

1. C. M. Rodenburg, 1960, Varieties of Lettuce, An International Monograph, Institut Voor de Veredeling van Tuinbouwgewassen, Wageningen, Holland.
2. L. L. Morse, 1930, Field Notes on Lettuce, published by Ferry-Morse Seed Co.

LEAF COLOR: Nickerson's or any recognized color fan may be used to determine the leaf color of the described variety. The following lettuce varieties may be used as a guide to identify the eight colors listed on the form.

Color	Variety
Red	"Salad Trim"
Reddish-brown	"Ruby"
Yellow	"Salad Bowl"
Yellowish-green	"Oakleaf"
Greyish-green	"White Boston"
Bluish-green	"Bibb"
Dark-green	"Imperial" group
Very dark green	"Deer Tongue"

PLANT SIZE: The following varieties may be used as a guide to identify the plant type size:

TYPE	COMPARABLE VARIETIES		
	SMALL	MEDIUM	LARGE
Cutting (leaf)	Boston-Curled	Prize Head	Grand Rapids
Stalk (stem)	Celtuce	--	--
Cos	Express	Parris Island	Giant White
Crisphead	Mignonette	Hanson (Merit)	Climax
Butterhead	Tom Thumb	Big Boston	Mammoth Butter
Latin	Sucrine	Creole	Deer Tongue



Bruce Church, Inc.

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VARIETY: ~~CITATION~~ ^{VIVA} DIPLOMAT

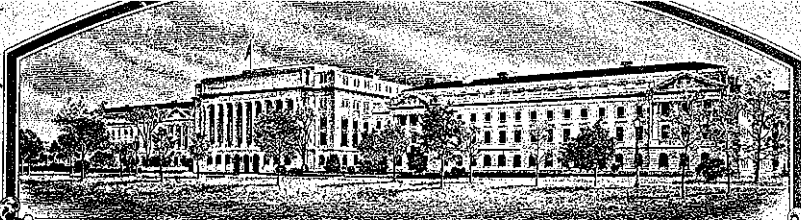
JE4790815

EXHIBIT D

AB 4/14/88

Additional Description of Variety

1. Annual. A crisphead lettuce variety with a large size frame. Wrapper leaves are slightly savoyed with a dark green and glossy color. Butt of plant is smooth, core being of large size (diameter: 2-1/2 to 3 cen.) and low in vertical distance (2 to 3 cent.)
2. ^{VIVA} ~~Citation~~ is best adapted to warm, late summer harvest period of San Joaquin Valley, California; the fall harvest period of Parker, Arizona; and the late fall or early winter harvest periods of Yuma, Arizona and Imperial Valley, California.



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Bruce Church, Inc.

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

6-17-88

Dr. Evans,

Please review the letter of 3-2-88 on the name change from 'Viva' x 'Diplomat' and tell me what should be ^{included with} ~~added to~~ the certificate inserts. Thank you.

6-14-88

Issue certificate in name of Koninklijke... with variety name 'Diplomat'.

— Be sure term of protection is 17 years and original grant date is Jan 2, 1980

— Also write letter concerning the point of contact on all the lettuce varieties (10) that were transferred to Koninklijke... &

Abz

this 2nd day of January in the year of our Lord one thousand nine hundred and eighty.

Attest:

[Signature]
Commissioner

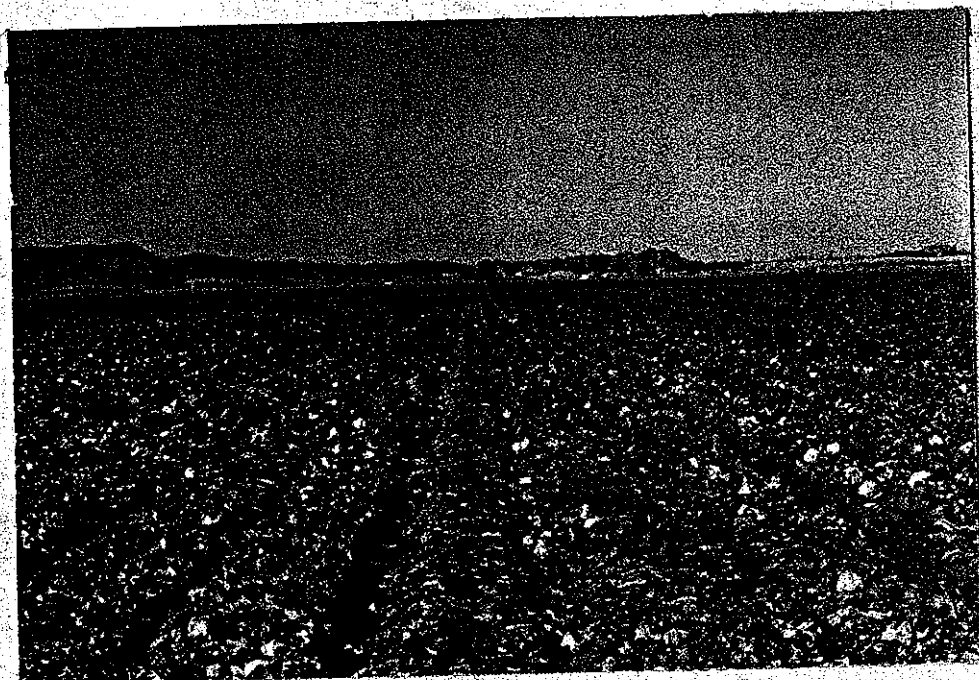
Plant Variety Protection Office
Grain Division
Agricultural Marketing Service

[Signature]
Secretary of Agriculture

ALL VARIETY
TAINED IN
DE A PART
IDED HAVE
HE PLANT
COPY, AND
ADJUDGED
LAW.

TO GRANT
AID APPLI-
T, SUBJECT
ABLE BASIC
HT TO EX-
DUCING IT,
DIFFERENT
TION ACT

reun to set
the Plant
be affixed



7900095

PHOTO #1

DIPLOMAT

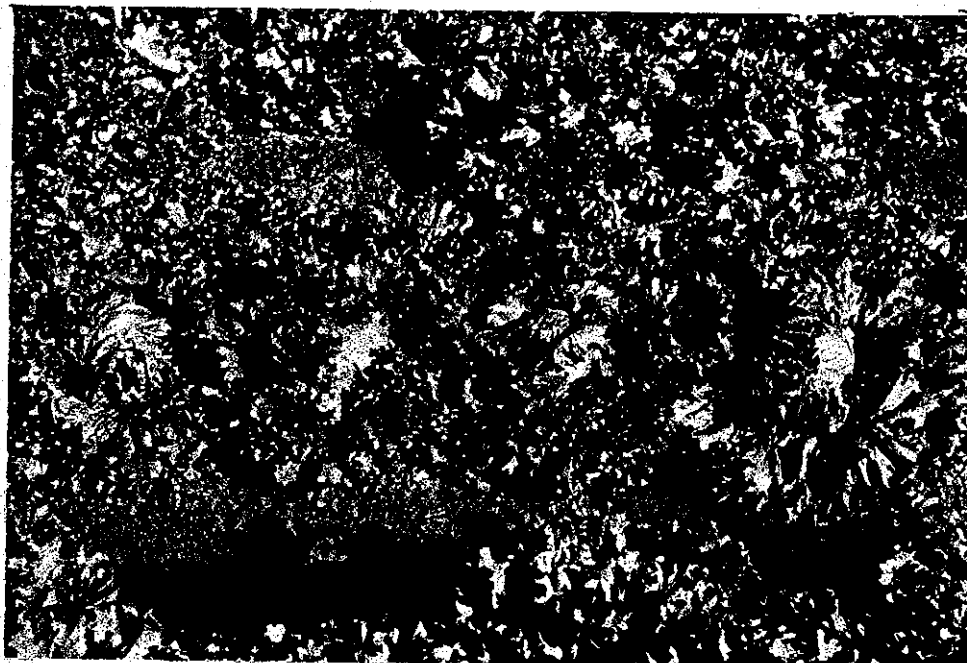
4/14/88, AB

P.V.P. Variety: Citation

Bruce Church Inc. Ranch Yuma, Arizona

Dec. 15, 1978

Photo taken after 1st harvest. The bed marked "X" is Citation. The one bed to the right and two beds to the left are experimental seeds. The balance is field planting of Empire seed. This photo shows the uniformity at harvest time of the Variety Citation compared to Empire.



7900095

PHOTO #2 DIPLOMAT AB, 9/19/88
P.V.P. Variety Citation
Bruce Church Inc. Ranch, Yuma, Arizona

Dec. 15, 1978

This photo shows a close up of the Variety Citation. This denotes the uniform heading and absence of spiraled heads as found in Empire (Photo #3).



7900095

PHOTO #3 DIPLOMAT AD 9/14/88

P.V.P Variety: ~~Citation~~

Bruce Church Inc, Ranch Yuma, Arizona

Dec. 15, 1978

This photo shows a close up of Empire.
Note the lack of uniform heading and presence
of spired heads as compared to Citation
(Photo #2)

7900095

EXHIBIT D

to
ASSET ACQUISITION AGREEMENT
by and between
BRUCE CHURCH, INC., a California corporation,
and
KONINKLIJKE ZAAIZAADBEDIJVEN GEBROEDERS SLUIS, B.V.,
a corporation formed under the laws of The Netherlands

ASSIGNMENT OF PLANT VARIETY PROTECTION CERTIFICATES

WHEREAS, BRUCE CHURCH, INC., a California corporation the mailing address for which is P.O.Box 80599, Salinas, California U.S.A., 93912-0599, is the owner of certain Plant Variety Protection Certificates issued either to BRUCE CHURCH, INC., or to QUALI-SEL, INC., a Delaware corporation by the Plant Variety Protection Office or by the United States Department of Agriculture, all as listed below (referred to collectively as the PVPs"); and

WHEREAS, KONINKLIJKE ZAAIZAADBEDIJVEN GEBROEDERS SLUIS, B.V., a corporation formed under the laws of The Netherlands, the mailing address for which is Post Box 22, 1600 AA Enkuisen, The Netherlands, is desirous of acquiring the PVP's and the certificates and application thereof;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, BRUCE CHURCH, INC and QUALI-SEL, INC., hereby assigns to KONINKLIJKE ZAAIZAADBEDIJVEN GEBROEDERS SLUIS, B.V. all right, title and interest in and to the PVPs.

7900095

The Plant Variety Protection Office is requested to record the assignment of the PVPs in accordance with Section 101 of the Plant Variety Protection Act (7 U.S.C. 2531).

PVP Certificate Number	Date of Issuance	Owner	Name of Variety	PVP Issued To
7400010	April 8, 1975	Bruce Church, Inc.	Red Coach 74	Quali-Sel, Inc.
8600108	January 15, 1988	Bruce Church, Inc.	Vancrisp	Quali-Sel, Inc.
7800014	April 20, 1978	Bruce Church, Inc.	Winter Supreme	Bruce Church, Inc.
8000043	May 15, 1980	Bruce Church, Inc.	Viva II	Bruce Church, Inc.
7800062	June 22, 1978	Bruce Church, Inc.	Blanco	Quali-Sel, Inc.
7900095	January 2, 1980	Bruce Church, Inc.	Viva	Bruce Church, Inc.

Note: The PVP name "Viva" had been changed to "Diplomat", the name change has been approved by the U. S. Department of Agriculture, Livestock and Seed Division. See attached correspondence relative to name change being processed by the Plant Variety Protection Office.


7900095

This assignment is executed this 7th day of March, 1988, at Salinas, California.

Quali-Sel, Inc.

Bruce Church, Inc.

By 

By 

Its Vice President

Its President

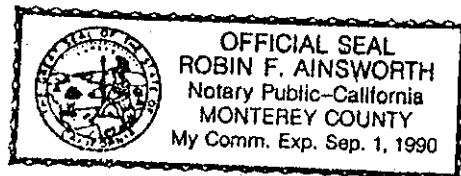
Acknowledgement for Corporation

State of California)

) SS

County of Monterey)

On this 7th day of March, in the year 1988, before me Edward H. Taylor, personally known to me to be the person who executed the within instrument as vice president of Quali-Sel, Inc. and president of Bruce Church, Inc. and acknowledged to me that the corporation executed it.




Notary Public

LAW OFFICES

KNOBBE, MARTENS, OLSON &

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATION

PATENT, TRADEMARK AND COPYRIGHT CAUSE

WELLS FARGO BANK BUILDING, SUITE 1640

101 WEST BROADWAY

SAN DIEGO, CALIFORNIA 92101

(619) 235-8550

TELECOPIER (619) 235-0176

LUIS J. KNOBBE*
DON W. MARTENS*
GORDON H. OLSON*
JAMES B. BEAR*
DARRELL L. OLSON*
WILLIAM B. BUNKER
JOHN C. LAMBERTSEN
DREW S. HAMILTON
WILLIAM H. NIEMAN*
LOWELL ANDERSON
ARTHUR S. ROSE
JAMES F. LESNIAK
NED A. ISRAELSEN
JERRY T. SEWELL
JOHN B. SGANGA, JR.
MARTIN J. HIRSCH
EDWARD A. SCHLATTER
DENNIS H. EPPERSON
JAMES D. McFARLAND
GERARD von HOFFMANN
MARCIA A. DEVON
GREGORY M. EDALATPOUR
ANDREW H. SIMPSON**†
ANITA M. KIRKPATRICK**

March 2, 1988

Via Federal Express

*Info concerning
variety name
change to
'Diplomat'*

Mr. Al Burgoon
Plant Examiner
PLANT VARIETY PROTECTION OFFICE
AGRICULTURAL MARKETING SERVICE
U.S. DEPARTMENT OF AGRICULTURE
10301 Baltimore Blvd.
National Agricultural Library Bldg.
Room 500
Beltsville, Maryland 20705

Re: Change of Lettuce Varietal Name from "VIVA
(PVP No. 7900095) to "DIPLOMAT"
Our Reference No. QUALI.000

Dear Mr. Burgoon:

Our firm represents Quali-Sel, Inc., a division of Bruce Church, Inc., which is in turn owned by Fresh International Corporation. Quali-Sel is in the process of selling to a third party several of its P.V.P. Certificates, one of which is Certificate No. 79 000 95 for the lettuce variety "VIVA" (see enclosed).

For reasons that are discussed in great detail within our letter to Donald Ator of August 20, 1986, (copy enclosed), Quali-Sel sought a change of variety name from "VIVA" to "DIPLOMAT". By a letter dated September 3, 1986, (copy enclosed), Mr. Ator found such a change to be justified and in the public interest.

The third paragraph of Mr. Ator's letter speaks of action by the P.V.P. Office on this change of name. At the time, we believed this action to have been self-actuating. However, to

KNOBBE, MARTENS, OLSON & BEAR

Mr. Al. Burgoon
Plant Examiner
PLANT VARIETY PROTECTION OFFICE
AGRICULTURAL MARKETING SERVICE
March 2, 1988
Page -2-

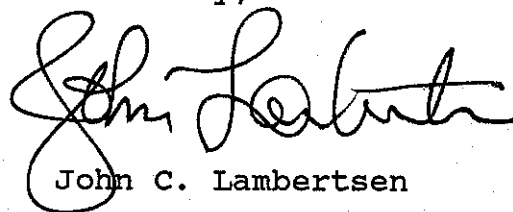
date we have received no communication from the P.V.P. Office in this regard.

This matter was entirely forgotten by us until a telephone call earlier today from Quali-Sel regarding their pending sale of this variety. The sale is due to close the middle of next week and it would be helpful if we could resolve this name change issue prior to closing of the sale.

Please telephone the undersigned after you have had an opportunity to review the enclosed. We have also enclosed a self-addressed Federal Express Overnight Letter package for use by the P.V.P. Office if it is necessary for us to send us additional forms. Please note that our office also has a facsimile machine, if this would assist in the mechanics of effecting the requested change.

Your assistance in this matter is greatly appreciated.

Cordially,



John C. Lambertsen

Enclosures

JCL-Y711/bsk2

cc: Jack Armstrong
David K. Thornberry

LAW OFFICES
KNOBBE, MARTENS, OLSON & BEAR
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

PATENT, TRADEMARK AND COPYRIGHT CAUSES

610 NEWPORT CENTER DRIVE, SUITE 1600

NEWPORT BEACH, CALIFORNIA 92660

(714) 760-0404

CABLE ADDRESS: KNOBBE

TWX 910-595-2494 KNOBBE-NPBH

TELEX 183513 KNOBBE-NPBH

TELECOPIER 714-760-9502

SAN DIEGO

101 WEST BROADWAY

SUITE 1640

SAN DIEGO, CALIFORNIA 92101

(619) 235-8550

TELECOPIER 619-235-0176

ANDREW H. SIMPSON

PATENT AGENT (NON LAWYER)

FOREIGN PATENT SPECIALIST

LOUIS J. KNOBBE*
DON W. MARTENS*
GORDON H. OLSON*
JAMES B. BEAR*
DARRELL L. OLSON*
WILLIAM B. BUNKER
WILLIAM H. NIEMAN
JOHN C. LAMBERTSEN
LOWELL ANDERSON
ARTHUR S. ROSE
JAMES F. LESNIAK
NED A. ISRAELSEN
DREW S. HAMILTON
JERRY T. SEWELL
JOHN B. SGANGA, JR.
MARTIN J. HIRSCH
EDWARD A. SCHLATTER
DENNIS H. EPPERSON

*A PROFESSIONAL CORPORATION

August 20, 1986

Mr. Donald W. Ator
Chief, Seed Branch; Lifestock and
Seed Division
UNITED STATES DEPARTMENT OF
AGRICULTURE, A.M.S.
1400 Independence Avenue, S.W.
Room 2603-S
Washington, D.C. 20250

Re: Change of Lettuce Varietal Name from "VIVA (PVP No.
7900095) to "DIPLOMAT"
Our Reference: QUALI.000

Dear Mr. Ator:

Confirming our conversation of several weeks ago, our firm represents Quali-Sel, Inc., a division of Bruce Church, Inc., with respect to various matters. By a letter to you dated January 22, 1986, Mr. Victor Heintzberger, Director of Research at Quali-Sel, sought to change the name of the lettuce variety previously identified as "VIVA" to the new name of "DIPLOMAT". You responded in a letter dated February 4, 1986, stating that no legitimate reason was discovered supporting such a name change. Copies of both of these letters are enclosed for your convenience.

As we discussed during our telephone conversation, the importance of this request of name change cannot be understated. The lettuce variety now known as "VIVA" has to date not been made available to the general public. This lettuce

Mr. Donald W. Ator
August 20, 1986
Page 2

variety has remained exclusively within the Bruce Church organization. Subsequently to the origination of the lettuce variety "VIVA" a second variety having entirely distinct characteristics was developed and named "VIVA II". The variety "VIVA II" originally remained exclusively within the Bruce Church organization, however it was released to the public in 1983, and growers and buyers quickly began referring to "VIVA II" as merely "VIVA". Since the real "VIVA" has, up to now, not been available to the public, it remained only a "potential" problem.

In 1986, our client has been given authorization by the Bruce Church organization to market "VIVA" to the general produce industry. Since the growing characteristics of the two varieties are distinct, should any confusion arise, which is a certainty given their identical names, planting one variety in the time slot best for the other variety will result in poor crop yields. Such results will ruin the reputation for any lettuce variety including the word "VIVA". In order to avoid this certain problem, Quali-Sel has requested permission to change the official name of the lettuce variety "VIVA" to "DIPLOMAT" prior to its introduction to the public. Such a name change is in the interest of growers and planters, and further effectuates the policy set forth in Section 201.34(d)(3) of the Federal Seed Act regulations:

"The variety name shall not be misleading. The same variety name shall not be assigned to more than one variety of the same kind of seed."

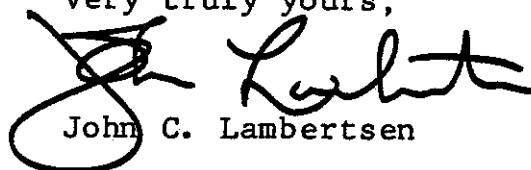
KNOBBE, MARTENS, OLSON & BEAR

Mr. Donald W. Ator
August 20, 1986
Page 3

In support of such a name change, we have enclosed herein a notarized statement obtained from Bruce Church, Inc., providing their approval, as the originator of the seed, for this name change.

If you have any questions or comments after reviewing the foregoing, and the enclosed materials, please do not hesitate to call the undersigned. We look forward to hearing from you at your earliest convenience, and very much appreciate your assistance in this matter.

Very truly yours,


John C. Lambertsen

Enclosures

KD-1077:ts1

Certified Mail No. P 465 000 974

Form 3811, July 1983 447-945

SENDER: Complete this form and attach to the reverse side of the mail piece.

Put your address on the reverse side. Put the return address on the back of the mail piece. The return address is the address to which the mail piece should be sent if it is not delivered. For full details, see the instructions on the back of the mail piece.

1 ☒ Show to whom you wish to deliver the mail piece (if you wish to deliver to someone other than the addressee, you must provide a return address and the name of the person to whom you wish to deliver the mail piece).

2 ☐ Return to sender (if you wish to return the mail piece to the sender, you must provide a return address and the name of the person to whom you wish to return the mail piece).

3 Article Addressed to: Mr. Donald W. Ator
UNITED STATES DEPT. OF AGRICULTURE, A.M.S.
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Article No. 250

4 Registered ☐ Insured ☐
Certified ☐ COD ☐
Express Mail ☐

P 465 000 974

Always obtain signature of addressee or agent and DATE DELIVERED.

5 Signature - Addressee ☒

6 Signature - Agent ☒

7 Date of Delivery

8 Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

P 465 000 974



United States
Department of
Agriculture

Agricultural
Marketing
Service

Washington,
D.C.
20250

September 3, 1986

Mr. John C. Lambertsen, Esq.
610 Newport Center Drive
Suite 1600
Newport Beach, California 92660

Dear Mr. Lambertsen:

Thank you for your August 20, 1986, letter explaining the necessity to change the varietal name of 'VIVA' lettuce.

Our February 4, letter to Quali-Sel, Inc., indicated that we found no legitimate reason to allow the change from the information as presented. Although the rules pertaining to variety naming and labeling are clear, they are based on the principle of not allowing confusion in the market. In the absence of a thorough investigation of this matter by the Federal Seed Act (FSA) staff, Bruce Church, Inc., as the originator and owner of the variety, should be considered as being in the best position to evaluate the situation. Therefore, the presentation in your letter leads us to believe the proposed change of 'VIVA' to 'DIPLOMAT' lettuce is justified, in accordance with the purpose of the rules and will serve the public interest.

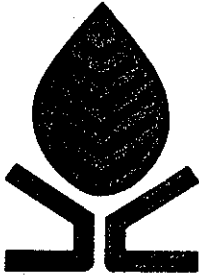
When the Plant Variety Protection Office acts on the application to change the name, we will record the change in the FSA variety files. The American Seed Trade Association office should also be notified, so they may update their reference file.

Sincerely,

Donald W. Ator
Chief, Seed Branch
Livestock and Seed Division

cc: Plant Variety Protection Office
American Seed Trade Association





Bruce Church, Inc.

STATEMENT OF BRUCE CHURCH, INC., IN SUPPORT OF
LETTUCE VARIETAL NAME CHANGE FROM "VIVA" TO "DIPLOMAT"

As an officer of Bruce Church, Inc., I, the undersigned, having knowledge of the following and the full authorization of Bruce Church, Inc., hereby state as follows:

1. Bruce Church, Inc., is the originator or discoverer of the lettuce varieties "VIVA" and "VIVA II," obtaining protection under the Plant Variety Protection provisions, Certificate Nos. 7900095 and 8000043, respectively.

2. Quali-Sel, Inc., is a wholly owned subsidiary of Bruce Church, Inc., and beginning in 1983, Quali-Sel was authorized to release the variety "VIVA II" into the general commerce.

3. In 1986, Quali-Sel, Inc. has been authorized, for the first time, to make the lettuce variety "VIVA" available to the general commerce, with its availability previously having been restricted to the Bruce Church, Inc. organization.

4. The Bruce Church, Inc. organization fully supports the change of name of the "VIVA" lettuce variety to "DIPLOMAT" in order to avoid the clear likelihood of confusion between "VIVA" and the "VIVA II" lettuce varieties, which confusion would act to the detriment of both lettuce varieties, the lettuce producers, and to the general public.

Dated: July 9, 1986



E. H. Taylor, Vice President



Bruce Church, Inc.

Statement of Bruce Church, Inc.,
In Support of Lettuce Varietal
Name Change from "VIVA" to
"DIPLOMAT"

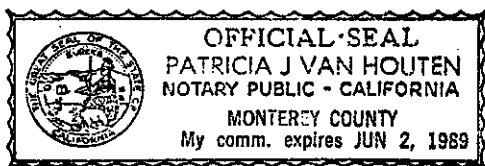
Page 2

STATE OF California)
) ss.
COUNTY OF Monterey)

On this 9th day of July, 1986, before me, the undersigned
Notary Public, duly commissioned and sworn, personally appeared
E. H. Taylor, personally known to me to be the Vice
President, (President, Secretary or other authorized Officer) of a
corporation that executed the within instrument, and acknowledged to me
that the said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year in this certificate above written.

[SEAL]



Patricia J. Van Houten
Notary Public in and for the
aforesaid County and State

My Commission Expires: 6/2/89

KF-1078:ts2
052086



UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE
LIVESTOCK, POULTRY, GRAIN & SEED DIVISION
NATIONAL AGRICULTURAL LIBRARY BUILDING
BELTSVILLE, MARYLAND 20705

CERTIFIED MAIL

JAN 16 1980

Mr. M. T. Payne
Vice President
Bruce Church, Inc.
P.O. Box 599
Salinas, CA 93902

Dear Mr. Payne:

It is with great pleasure that I enclose the following
U. S. Plant Variety Protection Certificate:

Certificate No. 7900095 Lettuce 'Viva'

Sincerely,

Bernard M. Leese
Commissioner, Plant Variety
Protection Office

Enclosure

No.

7900095



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Bruce Church, Inc.

Whereas, THERE HAS BEEN PRESENTED TO THE
Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED NOVEL VARIETY OF SEXUALLY REPRODUCED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF seventeen YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR EXPORTING IT, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT (AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

LETTUCE

'Viva'

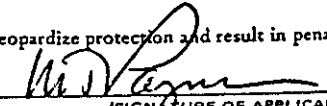


In Testimony Whereof, I have hereunto set
my hand and caused the seal of the Plant
Variety Protection Office to be affixed
at the City of Washington
this 2nd day of January in
the year of our Lord one thousand nine
hundred and eighty.

Attest:

Ernest H. Lee
Commissioner
Plant Variety Protection Office
Grain Division
Agricultural Marketing Service

W. B. Bery
Secretary of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE LIVESTOCK, POULTRY, GRAIN & SEED DIVISION			FORM APPROVED OMB NO. 40-R3822	
APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE				
INSTRUCTIONS: See Reverse.				
1a. TEMPORARY DESIGNATION OF VARIETY		1b. VARIETY NAME		FOR OFFICIAL USE ONLY PV NUMBER 7900095
Citation		Citation VIVA		
2. KIND NAME		3. GENUS AND SPECIES NAME		FILING DATE 7-26-79
Lettuce		Lactuca Sativa L.		TIME 4:00 P.M.
4. FAMILY NAME (BOTANICAL)		5. DATE OF DETERMINATION		FEE RECEIVED \$ 500.00 \$ 250.00
Compositae		October 15, 1978		DATE 7-26-79 9-17-79
6. NAME OF APPLICANT(S)		7. ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code)		8. TELEPHONE AREA CODE AND NUMBER
Bruce Church, Inc.		P. O. Box 599 Salinas, California 93902		(408) 758-4421
9. IF THE NAMED APPLICANT IS NOT A PERSON, FORM OF ORGANIZATION: (Corporation, partnership, association, etc.)		10. IF INCORPORATED, GIVE STATE AND DATE OF INCORPORATION		11. DATE OF INCORPORATION
Corporation		California		3/15/49
12. NAME AND MAILING ADDRESS OF APPLICANT REPRESENTATIVE(S), IF ANY, TO SERVE IN THIS APPLICATION AND RECEIVE ALL PAPERS: M. T. Payne, Vice President Bruce Church, Inc. P. O. Box 599, Salinas, California 93902				
13. CHECK BOX BELOW FOR EACH ATTACHMENT SUBMITTED:				
<input checked="" type="checkbox"/> 13A. Exhibit A, Origin and Breeding History of the Variety (See Section 52 of the Plant Variety Protection Act.) <input checked="" type="checkbox"/> 13B. Exhibit B, Novelty Statement. <input checked="" type="checkbox"/> 13C. Exhibit C, Objective Description of the Variety (Request form from Plant Variety Protection Office.) <input checked="" type="checkbox"/> 13D. Exhibit D, Additional Description of the Variety.				
14a. DOES THE APPLICANT(S) SPECIFY THAT SEED OF THIS VARIETY BE SOLD BY VARIETY NAME ONLY AS A CLASS OF CERTIFIED SEED? (See Section 83(a). (If "Yes," answer 14B and 14C below.) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
14b. DOES THE APPLICANT(S) SPECIFY THAT THIS VARIETY BE LIMITED AS TO NUMBER OF GENERATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		14c. IF "YES," TO 14B, HOW MANY GENERATIONS OF PRODUCTION BEYOND BREEDER SEED? <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED		
15a. DID THE APPLICANT(S) FILE FOR PROTECTION OF THIS VARIETY IN OTHER COUNTRIES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If "Yes," give name of countries and dates.)				
15b. HAVE RIGHTS BEEN GRANTED THIS VARIETY IN OTHER COUNTRIES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If "Yes," give name of countries and dates.)				
16. DOES THE APPLICANT(S) AGREE TO THE PUBLICATION OF HIS/HER (THEIR) NAME(S) AND ADDRESS IN THE OFFICIAL JOURNAL? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
17. The applicant(s) declare(s) that a viable sample of basic seed of this variety will be furnished with the application and will be replenished upon request in accordance with such regulations as may be applicable. The undersigned applicant(s) is (are) the owner(s) of this sexually reproduced novel plant variety, and believe(s) that the variety is distinct, uniform, and stable as required in Section 41, and is entitled to protection under the provisions of Section 42 of the Plant Variety Act. Applicant(s) is (are) informed that false representation herein can jeopardize protection and result in penalties.				
<u>7/20/79</u> (DATE)		 (SIGNATURE OF APPLICANT)		
(DATE)		(SIGNATURE OF APPLICANT)		



Bruce Church, Inc.

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VIVA
VARIETY: CITATION

162
790315

EXHIBIT A

Origin and Breeding History of Variety

1. ^{VIVA} ~~Citation~~ originated from a hand-pollinated cross between Empire and Spartan Lakes. The cross was made in the Salinas Valley of California in 1973.
2. Initial trial plantings were conducted in 1974 to allow for individual plant selection work. Several subsequent trial plants were made following the initial selection process to allow for segregation and more evaluations and selections. Selections were made on the basis of size, color, texture and uniform heading capabilities.
3. The procedures involving trial plantings, evaluations, and plant selections were repeated numerous times before finally attaining the desirable plant type. These plantings were conducted in Yuma, Arizona, and the Salinas and San Joaquin Valleys of California.
4. ^{VIVA} ~~Citation~~ is genetically uniform and free of any distinct variations.



Bruce Church, Inc.

Page One of 2

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VARIETY: ^{VIVA} CITATION

317
710815

EXHIBIT B

Novelty Statement

^{VIVA} Citation most closely resembles the variety Empire. The distinguishing features of ^{VIVA} Citation compared to Empire include:

1. Color

^{VIVA} Citation is a darker green color than Empire. ^{VIVA} Citation most closely resembles "Green Group 143-C" (Royal Horticultural Society Colour Chart), whereas Empire most closely resembles "Yellow-Green Group 144-B of this same chart.

In addition to the darker color, ^{VIVA} Citation also exhibits more of a glossy appearance than Empire.

2. Texture

^{VIVA} Citation has thicker head leaves than Empire. In comparing the second head leaf of each variety, Empire has a thickness of one-half to one millimeter; whereas ^{VIVA} Citation has a thickness of one to two millimeters. This ^{VIVA} additional thickness of leaves gives ^{VIVA} Citation a better texture. Better texture leads to a longer shipping and shelf-life. This was apparent from post-harvest holding trials simulating shipping conditions for a period of seven days. Empire will show seventy-five percent more post-harvest disorders such as pink rib and senescence tip burn than ^{VIVA} Citation.

3. Heading and Uniformity of Heading

^{VIVA} Citation is a better heading variety and extremely more uniform heading variety than Empire. (See photographs enclosed.) Empire will have a tendency to remain puffy in hot weather; ^{VIVA} Citation will make a solid head of lettuce under the same temperature conditions. Empire will also at times form a spiraled-type head whereas ^{VIVA} Citation will consistently form a round solid head. ^{VIVA} Citation is more uniform in heading than Empire. (See photographs enclosed.) ^{VIVA} Within this field, by actual counts, ^{VIVA} Citation harvested ninety-seven percent of the heads in one cutting; whereas Empire harvested only fifty percent of the heads.



Bruce Church, Inc.

Page 2 of 2

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VIVA
VARIETY: CITATION

364
790815

EXHIBIT B

Novelty Statement

(See photograph pages for descriptive information.)

4. Early Maturing

VIVA
Citation will mature four days earlier than Empire.

OBJECTIVE DESCRIPTION OF VARIETY
(LETTUCE)

INSTRUCTIONS: See reverse.

NAME OF APPLICANT(S):

BRUCE CHURCH, INC.

ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP Code)

P. O. Box 599
Salinas, California 93902

FOR OFFICIAL USE ONLY

PVPO NUMBER

297-1-7900095

VARIETY NAME OR TEMPORARY DESIGNATION

Citation VIVA 54490815

Place the appropriate number that describes the varietal character of this variety in the boxes below.

1. PLANT TYPE:		30 = COS	40 = CRISPHEAD
<input type="text" value="4"/> <input type="text" value="1"/>	10 = CUTTING (Leaf) 50 = BUTTERHEAD 70 = OTHER (Specify)	31 = SELF-CLOSING GROUP 32 = LOOSE-CLOSING GROUP	41 = IMPERIAL GROUP 42 = GREAT LAKES GROUP 43 = VANGUARD 44 = NEW YORK GROUP
2. SEED COLOR:		3. ANTHOCYANIN:	
<input type="text" value="2"/> 1 = WHITE 2 = BLACK 3 = YELLOW		<input type="text" value="1"/> 1 = ABSENT 2 = PRESENT	
4. LEAF CONTAINING ANTHOCYANIN:			
<input type="text" value="4"/> 1 = COVERED 2 = SPOTTED 3 = ALONG MARGIN 4 = ABSENT 5 = OTHER (Specify)			
5. LEAF SURFACE TEXTURE:		6. LEAF SURFACE REFLECTANCE:	
<input type="text" value="2"/> 1 = SMOOTH 2 = BLISTERED		<input type="text" value="2"/> 1 = DULL 2 = GLOSSY 3 = OTHER (Specify)	
7. LEAF MARGIN:		8. LEAF SHAPE:	
<input type="text" value="2"/> 1 = STRAIGHT 2 = WAVY 3 = CURLED		<input type="text" value="2"/> 1 = ENTIRE 2 = DENTATE 3 = INCISED 4 = DEEPLY INCISED 5 = OTHER (Specify)	
<input type="text" value="1"/> 1 = ROUNDED 2 = POINTED		<input type="text" value="1"/> 1 = BROADER THAN LONG 2 = LONGER THAN BROAD 3 = OTHER (Specify)	
9. LEAF COLOR: (See reverse.)			
<input type="text" value="7"/> 1 = RED 2 = REDDISH-BROWN 3 = YELLOW 4 = YELLOWISH-GREEN 5 = GREYISH-GREEN 6 = BLUE-GREEN 7 = DARK-GREEN 8 = VERY DARK GREEN			
10. HEADS:		11. PLANT SIZE: (See reverse.)	
<input type="text" value="1"/> 1 = SPHERICAL 2 = FLATTENED 3 = ELONGATE 4 = POINTED 5 = NON-HEADING		<input type="text" value="3"/> 1 = SMALL 2 = MEDIUM 3 = LARGE	
12. CULTURE:			
<input type="text" value="5"/> 1 = SUMMER CROP 2 = WINTER CROP 3 = NOT SPECIFIC 4 = UNDER GLASS 5 = OTHER (Specify) <u>Late summer, fall, early winter</u>			
13. SIZE OF 10-DAY OLD SEEDLING GROWN UNDER CONSTANT LIGHT (Growth Chamber) AT 25° C.: (Place a zero in first box (i.e. <input type="text" value="0"/> <input type="text" value="2"/>)) when size is 9 mm. or less.)			
<input type="text" value="7"/> <input type="text" value="9"/> mm. LENGTH OF SEEDLING		<input type="text" value="2"/> <input type="text" value="9"/> mm. LENGTH OF COTYLEDON <input type="text" value="0"/> <input type="text" value="8"/> mm. WIDTH OF COTYLEDON	
14. DISEASE RESISTANCE TO: (Enter zeroes in box(es) where there is no special disease resistance.)			
<input type="text" value="0"/> 1 = TIPBURN <input type="text" value="0"/> 2 = MOSAIC <input type="text" value="0"/> 3 = DAMPING OFF <input type="text" value="0"/> 4 = DOWNY MILDEW <input type="text" value="0"/> 5 = SCLEROTINIA ROT <input type="text" value="0"/> 6 = BROWN BLIGHT <input type="text" value="0"/> 7 = BIG VEIN <input type="text" value="0"/> 8 = OTHER (Specify)			
15. OUTLINE THE FOURTH LEAF: (For standardization purposes, the fourth leaf should be taken from a 20-day old plant grown under constant light.)			





Bruce Church, Inc.

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

VARIETY: ^{VIVA}
CITATION

767
790815

OBJECTIVE DESCRIPTION OF VARIETY - ITEM 13

Size of Ten-Day Old Seedling Grown
Under Constant Light at 25°C

<u>Length of Seedling</u>	<u>Length of Cotyledon</u>	<u>Width of Cotyledon</u>
79mm	26mm	8mm
85	27	8
70	25	8
98	35	9
79	32	9
78	33	9
74	28	8
84	29	7
75	25	9
74	29	10
Avg. 79mm	29mm	8mm

7900095

FORM GR-471 (REVERSE)

16. INDICATE WHICH VARIETY MOST CLOSELY RESEMBLES THAT SUBMITTED:

CHARACTER		NAME OF VARIETY				
Leaf color		Empire				
Leaf pigmentation		Empire				
Leaf shape		Empire				
Plant size		Empire				
Head size		Empire				
VARIETY	NO. OF DAYS TO HEAD MATURITY UNDER WINTER * CROPPING	LOCATION	NO. OF DAYS TO HEAD MATURITY UNDER SUMMER ** CROPPING	LOCATION	NO. OF DAYS TO SEED STALK EMERGENCE UNDER SUMMER CROPPING	LOCATION
Submitted	81 Days	Yuma, AZ	65	Huron, CA	80	San Joaquin Valley, CA
Similar	85 Days	Yuma, AZ	69	Huron, CA	70	San Joaquin Valley, CA
Name of similar variety	Empire		Empire		Empire	

* Fall Cropping

** Late Summer

INSTRUCTIONS

GENERAL: The following publications may be used as a reference aid for completing this form:

1. C. M. Rodenburg, 1960, Varieties of Lettuce, An International Monograph, Instituut Voor de Veredeling van Tuinbouwgewassen, Wageningen, Holland.
2. L. L. Morse, 1930, Field Notes on Lettuce, published by Ferry-Morse Seed Co.

LEAF COLOR: Nickerson's or any recognized color fan may be used to determine the leaf color of the described variety. The following lettuce varieties may be used as a guide to identify the eight colors listed on the form.

Color	Variety
Red	"Salad Trim"
Reddish-brown	"Ruby"
Yellow	"Salad Bowl"
Yellowish-green	"Oakleaf"
Greyish-green	"White Boston"
Bluish-green	"Bibb"
Dark-green	"Imperial" group
Very dark green	"Deer Tongue"

PLANT SIZE: The following varieties may be used as a guide to identify the plant type size:

TYPE	COMPARABLE VARIETIES		
	SMALL	MEDIUM	LARGE
Cutting (leaf)	Boston-Curled	Prize Head	Grand Rapids
Stalk (stem)	Celtuce	--	--
Cos	Express	Parris Island	Giant White
Crisphead	Mignonette	Hanson (Merit)	Climax
Butterhead	Tom Thumb	Big Boston	Mammoth Butter
Latin	Sucrino	Cresle	Deer Tongue



Bruce Church, Inc.

7900095

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

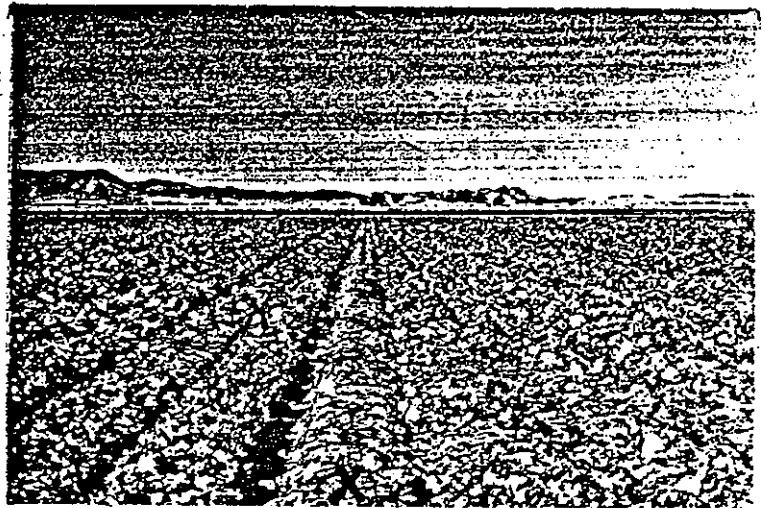
VARIETY: ^{VIVA} CITATION

JE+790815

EXHIBIT D

Additional Description of Variety

1. Annual. A crisphead lettuce variety with a large size frame. Wrapper leaves are slightly savoyed with a dark green and glossy color. Butt of plant is smooth, core being of large size (diameter: 2-1/2 to 3 cen.) and low in vertical distance (2 to 3 cent.)
2. ^{VIVA} Citation is best adapted to warm, late summer harvest period of San Joaquin Valley, California; the fall harvest period of Parker, Arizona; and the late fall or early winter harvest periods of Yuma, Arizona and Imperial Valley, California.



7900095

PHOTO #1

P.V.P. Variety: Citation

Bruce Church Inc. Ranch Yuma, Arizona

Dec. 15, 1978

Photo taken after 1st harvest. The bed marked "X" is Citation. The one bed to the right and two beds to the left are experimental seeds. The balance is field planting of Empire seed. This photo shows the uniformity at harvest time of the Variety Citation compared to Empire.



7900095

PHOTO #3

P.V.P Variety: Citation

Bruce Church Inc, Ranch Yuma, Arizona

Dec. 15, 1978

This photo shows a close up of Empire.
Note the lack of uniform heading and presence
of spired heads as compared to Citation
(Photo #2)